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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/003,907	11/02/2001	Subramaniam Srikumaran	UNL 3060.2	7717

321 7590 01/16/2003

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EXAMINER

LI, BAO Q

ART UNIT	PAPER NUMBER
1648	

DATE MAILED: 01/16/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/003,907	SRIKUMARAN, SUBRAMANIAM	
	Examiner	Art Unit	
	Bao Qun Li	1648	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 18 March 2002.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) _____ is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) 1-39 are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____. | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION***Election/Restrictions***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claim 1-21, drawn to a method for eliciting an immune response, classified in class 424, subclass 93.1.
 - II. Claims 22-39, drawn to a composition comprising a purified epitope/heat shock protein complex, classified in class 424, subclass 192.1.

If group I or II is elected, Applicants are further requested to select one of allele specific peptide motifs for the prosecution on the merits. This is not related to the species election because each of allele specific peptide motifs has different structure and function, which has different patentable weight and constitutes a distinct invention. The allele specific peptide motifs needs to be elected from are: (1). BoLA-A11 (2). A BoLA-A20, (3). A BoLA-HD1, (4). A BoLA-HD6, and (5). A BoLA-HD7.

If any of the group I or II is elected, Applicants are further requested to select one of virus epitopes for the prosecution on the merits. This is not related to the species election because each of virus epitopes has different structure and function, which has different patentable weight and constitutes a distinct invention. The virus epitopes needs to be elected from are: a). Bovine viral diarrhea virus, b). bovine respiratory syncytial virus, c). parainfluenza virus III, d). bovine corona virus and e). bovine rotavirus.

If group I or II is elected, Applicants are further requested to select one of heat shock protein for the prosecution on the merits. This is not related to the species election because each of heat shock protein has different structure and function, which has different patentable weight and constitutes a distinct invention. The heat shock protein needs to be elected from are: i). HSP 60, ii). HSP 70, iii). HSP 90 and iv). HSP 96.

2. The inventions are distinct, each from the other because of the following reasons:
3. Inventions I and II are related as process of using and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be practiced with materially different product or (2) that the product as claimed can be practiced by another and materially different process (MPEP § 806.05(f)). In the instant case, the process of

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the Group I can be practiced with a antigen isolated from a bovine virus plus an adjuvant, such as IL-2.

4. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, and the literature and sequence searches required for one of the Groups are not required for another one of the Groups, restriction for examination purposes as indicated is proper.

5. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

6. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(I).

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bao Qun Li whose telephone number is 703-305-1695. The examiner can normally be reached on 8:00 to 4:00.

8. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Housel can be reached on 703-308-4027. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-4242 for regular communications and 703-308-4242 for After Final communications.

9. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0196.

Bao Qun Li

January 10, 2003

James C. Housel
JAMES HOUSEL
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600
1/15/03